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## REMARKS

The Applicant thanks the Examiner for examination of this application. This is a response to the Office Action mailed on July 21, 2010. Please consider the following remarks in support of allowing the claims.

### 35 U.S.C. §103(a)

#### Claim 1

Claim 1 is rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over US Patent 5,721,829 to Dunn et al (hereafter referenced as Dunn) in view of US PG Pub 2009/0144781 to Glaser et al (hereafter referenced as Glaser).

#### Dunn

Dunn describes (column 6, lines 26-27 and 39-55) that upon switching to a non-VOD channel, the STB transmits to the headend a pause message containing a viewer ID. The pause message instructs the headend video content playing unit 48 to cease transmission of the present program to the STB associated with the viewer ID. The video content playing unit 48 notes the elapse time of the program to mark the juncture of the program when paused. As an alternative to elapse time, the playing unit can identify the time remaining or some other temporal reference to the pause point in the unfinished program. Another way to identify the pause point is to have the video content playing unit create a pointer to the memory location within the CMS database which corresponds to the juncture of the program when paused. The video content playing unit thus returns a program ID and a pause point to the unfinished program (i.e., a temporal reference, such as elapsed time, or a memory pointer). The program ID and pause point are used later to resume play when the viewer switches back to the VOD channel.

Dunn describes (column 7 lines 9-19) that when the viewer once again tunes to the VOD channel, the headend [sic] sends a resume message to the headend. The resume

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message contains the viewer ID. The headend queries the SQL database, and particularly the pause/resume register 104, to determine whether the corresponding viewer had previously been watching a program that had not completed. The pause/resume register returns the program ID and pause point which are used to access and retrieve the remaining portion of the unfinished video content program from the CMS database. The headend then resumes transmission of the program to the STB.

### Dunn Teaches Away From Claim 1

Dunn does not describe a server adapted to deliver at least one audio and/or video stream and to insert markers in the at least one stream, the markers comprising position data in the at least one stream; and to receive from a set top box a marker obtained from the stream and comprising position data for an audio and/or video stream for which the set top box has paused or suspended viewing.

Dunn teaches away from the present application. There would be no motivation at all for a server to deliver A/V streams with position markers in them, or for the set top box to obtain position markers from the stream, if the set top was already designed to determine a position of a stream pause and return it to the server.

### Glaser

Glaser describes (Par 0074) that acknowledge and stop markers are placed at the end of selected blocks of data (e.g., every 1 kilobyte block of data). These markers (Claim 42) are inserted as a means for regulating the amount of metadata being transmitted to the client device; if a marker is not acknowledged by the client device, it will result in the media server discontinuing the transmission of the metadata to the client device.

Glaser does not describe the insertion of markers that indicate position data in the stream. The markers described in Glaser are clearly used to manage flow control from server to client. If a marker is not acknowledged, the server cuts flow.

### Glaser and Dunn Do Not Combine to Render Claim 1 Obvious

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One skilled in the art would not find it obvious to combine Dunn and Glaser to yield the system described in claim 1. Glaser describes flow control markers in a stream, but there is no motivation provided to redesign the system of Dunn to use these flow control markers when pausing a stream. Dunn describes a different manner of pausing a stream that doesn't need, require, or benefit from position markers inserted in the stream by the server. Even in the event one skilled in the art found any reason at all to combine Dunn and Glaser, the combination would most obviously yield a system in which the STB determined a pause point and the server inserted flow control markers in the stream; but there is no suggestion from the combined references that the server would insert position markers in the stream for the STB to return with a pause.

### Claim 2

Claim 2 is rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Dunn in view of Glaser as applied to claim 1 above, and further in view of US Patent 6,115,057 to Kwoh et al (hereafter referenced as Kwoh).

The remarks on patentability for claim 1 also apply to this claim. Furthermore; Kwoh does not disclose that position markers inserted by a stream server would also delineate proximate content ratings.

### Claims 3-8

Claims 3-8 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over US Patent 7,055,166 to Logan et al (hereafter referenced as Logan) in view of Glaser.

### Logan

Logan describes (column 13 lines 11-30) that a broadcaster may produce marking signals representative of information that prevents portions (e.g. commercials) of the broadcast programming signal from being skipped or deleted. The marking signal may include a blocking signal, which instructs the processor that a particular portion of the broadcast programming signal may not be deleted or skipped.

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### Logan and Glaser Do Not Combine to Render Claims 3 or 4 Obvious

Glaser describes flow control markers. Glaser does not describe scanning a stream for a number of markers in a time interval; rather, Glaser requires the client to acknowledge markers as they occur. Logan and Glaser do not combine to render claim 3 or claim 4 obvious at least because there is no suggestion or motivation in either reference to use the content markers of Logan for flow control. Instead, at best, the references combine to teach that flow control markers could be added to a stream that also includes content markers. In fact, the content markers of Logan are entirely unsuitable for flow control, being indeterminate in both time and stream location (they appear only where it is desired to control navigation by the end user). Glaser teaches that the client acknowledges the markers to the server as they occur, not counting a number in a time interval.

### Logan and Glaser Do Not Combine to Render Claims 5-8 Obvious

The remarks in support of the patentability of claim 4, surpa, apply as well to these claims. Claims 5-8 also recite additional features at least some of which are not described in Logan or Glaser.

### Claim 9

Claim 9 is rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Logan in view of Glaser as applied to claim 4 above, and further in view of Kwoh.

The remarks in support of the patentability of claim 4, surpa, apply as well to claim 9. Kwoh does not lend additional description which would render the unobvious material of the claim 4 (from which claim 9 depends) obvious in light of the combination of Logan and Glaser.

### Claims 11-15

Claims 11-15 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Logan in view of Glaser as applied to claim 4 above, and further in view of US PG Pub 2003/0188316 to DePrez (hereafter referenced as DePrez).

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The remarks in support of the patentability of claim 4, surpa, apply as well to claims 11-15. DePrez does not lend additional description which would render the unobvious material of the claim 4 (from which claims 11-15 depend) obvious in light of the combination of Logan and Glaser.

### Claim 16

Claim 16 is rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Logan in view of Glaser and DePrez as applied to claim 11-15 above, and further in view of Kwoh.

The remarks in support of the patentability of claim 11-15, surpa, apply as well to claim 16. Kwoh does not lend additional description which would render the unobvious material of the claim 11 (from which claim 16 depends) obvious in light of the combination of Logan and Glaser and DePrez.

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## Conclusion

The Applicant respectfully believes that the novelty of the claims has been adequately demonstrated, and respectfully requests allowance of all claims.

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